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SENATE BILL NO. 844

Offered January 9, 2013

Prefiled January 2, 2013

A BILL to amend and reenact § 15.2-1643 of the Code of Virginia, relating to courthouse repair.

Patron—Carrico

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-1643 of the Code of Virginia is amended and reenacted as follows:****§ 15.2-1643. Circuit courts to order court facilities to be repaired.**

A. When it appears to the circuit court for any county or city, from the report of persons appointed to examine the court facilities, or otherwise, that the court facilities of such county or city are insecure, out of repair, or otherwise pose a danger to the health, welfare and safety of court employees or the public, the court shall enter an order, in the name and on behalf of the Commonwealth against the supervisors of the county, or the members of the council of the city, as the case may be, to show cause why a mandamus should not issue, commanding them to cause the court facilities of such county or city to be made secure, or put in good repair, or rendered otherwise safe as the case may be, and to proceed as in other cases of mandamus, to cause the necessary work to be done. The court shall cause a copy of such order to be served upon each supervisor or member of the council, as the case may be.

B. Upon the entry of such order, as provided in subsection A hereof, the chief judge of the circuit shall forthwith notify the Chief Justice of the Supreme Court of the entry thereof. Upon receipt of the notice, the Chief Justice shall assign a judge of a circuit remote from the circuit wherein the repairs are alleged to be necessary to hear and determine whether, after consideration of such matters as set forth in subdivisions 1 through 4, the court facilities are in fact insecure or out of repair or otherwise pose a danger to the health, welfare and safety of court employees or the public and the extent to which repairs, if any, are necessary.

Before a mandamus is issued, if the concerned governing body elects, or if the pleadings allege that the court facilities are in fact insecure or out of repair, or otherwise pose a danger to the health, welfare and safety of court employees or the public, the local governing body shall appoint a five-member panel, three of whom shall be qualified by training and experience as either an architect or a professional engineer, not representing the same firms, to review the court facilities in question and make recommendations to the local governing body and circuit court judge assigned by the Chief Justice concerning the construction or repairs deemed necessary.

In making their recommendations, the panel shall consider matters such as, but not limited to, the following:

1. Security provisions to safeguard court personnel, participants and the public;
2. Efficient layout and circulation patterns to maximize public access, promote efficient operations, and accommodate the diverse users;
3. Provision of administrative and service areas, judges' chambers, hearing rooms, conference rooms, prison holding areas, and public information areas; and
4. Comfort, safety and obsolescence of the existing facility or any part thereof.

The existing facilities shall be considered in relationship to their location and the extent of their use, and their failure to meet any of these general considerations shall not necessarily be deemed a cause for determining them inadequate.

In making their recommendations, the panel may consult recognized national standard works in the field.

All costs, fees and expenses of the five-member panel, after approval by the local governing body, shall be paid by the county or city that appointed the panel.

C. If, after hearing, the court finds that the court facilities are not insecure or out of repair or otherwise unsafe, or having been in such condition, that the necessary repairs have been made, the court shall vacate the order. If the court finds that the court facilities are insecure or out of repair or otherwise unsafe, it shall issue its mandamus as provided in subsection A.

D. Appeals shall be allowed to the Supreme Court of Virginia as appeals from courts of equity are allowed.

E. Nothing in this section shall be construed to authorize a circuit court to require that an additional or replacement courthouse be constructed.

F. Counties with a population of less than 75,000 may by ordinance appoint a committee to examine

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59 court facilities and to report whether the court facilities are insecure, out of repair, or otherwise pose a
60 danger to the health, welfare, and safety of court employees or the public. The report shall be presented
61 to the board of supervisors at least every five years or at the request of the board.

62 The committee shall consist of the following: two members of the board of supervisors, two judges
63 from the locality, the clerk of the circuit court, the attorney for the commonwealth, the treasurer, the
64 commissioner of the revenue, a designee from the county bar association, a representative of the town in
65 which the court is located, if any, a local architect, and a local engineer. The local architect and the
66 local engineer shall be paid for their services but shall not be engaged for the court facility renovation
67 or rebuilding. Recommendations of the committee shall be approved by majority vote to be included in
68 the report to the locality. Terms on the committee shall be for six years.

69 If the committee makes a recommendation for repairs of, renovation to, or building of a courthouse
70 to the board and the board approves the recommendation by majority vote, the county may issue a
71 request for proposals. The request for proposals may be issued pursuant to its ordinance authorizing use
72 of the Public-Private Education Facilities and Infrastructure Act. A public hearing before both the
73 committee and the board shall be required.

74 In accepting bids for court facility improvements, renovations, or building, cost shall be a primary
75 factor; however, the committee may also consider factors provided in subdivisions B 1 through B 4 and
76 other national standard works in the field.

77 Failure of the county to follow committee recommendations from the five-year report shall result in a
78 new committee report being considered within two years. Failure to approve the recommendations from
79 the second report provided shall result in the court entering an order under the process outlined in this
80 section.